

STABILISATION OF REMUNERATION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Stabilisation of Remuneration Act 1971.

Clause 1 relates to the Short Title.

Clause 2: Section 21 (1) of the principal Act provides that except with the consent of the Remuneration Authority given under section 22, no new instrument (which term includes an award) shall fix any rate of remuneration that exceeds the base rate by a percentage greater than the specified percentage (at present 7 percent). Subsection (5) provides that no order of any tribunal constituted under any enactment, so far as it fixes any remuneration to which subsection (1) applies at a rate that exceeds the base rate by a percentage that exceeds the specified percentage, shall have effect except with the consent of the Remuneration Authority given under section 22.

In proceedings in the Supreme Court for an interpretation of these provisions, the Court has decided that—

- (a) The provisions of an award fixing rates of remuneration agreed upon by the parties and exceeding the base rate by a percentage greater than the specified percentage are not effective without the consent of the Remuneration Authority.
- (b) The provisions of an award fixing rates of remuneration not agreed upon by the parties and exceeding the base rate by a percentage greater than the specified percentage are effective without the consent of the Remuneration Authority, which has no jurisdiction to exercise its powers under section 22 in relation to those rates of remuneration.

In the course of his judgment, the Judge expressed a doubt as to whether the expression "order of any tribunal" in section 21 (5) included an award of the Court of Arbitration and as to whether that Court was a "tribunal" for the purposes of that subsection.

This clause amends section 21 by providing expressly that an award of the Court of Arbitration made under any provision of the Industrial Conciliation and Arbitration Act 1954 or of any other Act is an order of a tribunal. If any such award fixes a rate of remuneration which exceeds the base rate by a percentage greater than the specified percentage, the award will therefore not have effect except with the consent of the Remuneration Authority, whether the award gives effect to a settlement or partial settlement arrived at by the parties or is made where there has been no such settlement.

The clause also makes it clear that if all the parties to any order, determination, or award agree on any rate of remuneration and obtain the consent of the Remuneration Authority to that rate before the order, determination, or award is made, the order, determination, or award when made, so far as it fixes that rate of remuneration, will not require the consent of the Authority.

The clause also amends section 22 of the principal Act by providing that any order, determination, or award of a tribunal fixing any rate of remuneration that requires the consent of the Authority is to be referred by the tribunal as soon as practicable to the Authority for its consent.

Subclauses (3) and (4) are consequential amendments to section 8 of the principal Act (relating to the functions of the Remuneration Authority) and to section 24 of that Act (relating to the reference to the Authority for its consent of determinations or orders fixing rates of remuneration of State employees).

These amendments are retrospective to the commencement of Part III of the principal Act (in the case of amendments of that Part) and to the commencement of the principal Act in other cases, but the rights of the parties to, and of persons bound by, the award that was the subject of the judgment of the Supreme Court are preserved.

Right Hon. Mr Marshall

**STABILISATION OF REMUNERATION
AMENDMENT**

ANALYSIS

Title
1. Short Title

2. Increase in rates of remuneration
beyond base rate

A BILL INTITULED

An Act to amend the Stabilisation of Remuneration Act 1971

BE IT ENACTED by the General Assembly of New Zealand
in Parliament assembled, and by the authority of the same,
5 as follows:

1. Short Title—This Act may be cited as the Stabilisation
of Remuneration Amendment Act 1971, and shall be read
together with and deemed part of the Stabilisation of
Remuneration Act 1971* (hereinafter referred to as the
10 principal Act).

2. Increase in rates of remuneration beyond base rate—
(1) Section 21 of the principal Act is hereby amended as
from the commencement of Part III of that Act by repealing
subsection (5), and substituting the following subsections:
15 “(5) No order or determination or award of any tribunal
constituted under any enactment, so far as it fixes any rate

*1971, No. 1

2 *Stabilisation of Remuneration Amendment*

of remuneration at a rate that exceeds the base rate by a percentage that exceeds the specified percentage, shall have effect except with the consent of the Remuneration Authority given under section 22 of this Act:

“Provided that where that rate has been agreed on by all the parties to the order or determination or award, or their representatives, and has been consented to by the Remuneration Authority under subsection (1) of section 22 of this Act before the making of the order, determination, or award, the consent of the Authority to the order, determination, or award, so far as it fixes that rate of remuneration, shall not be required. 5 10

“(5A) In subsection (5) of this section and in section 22 of this Act, the expression ‘order or determination or award of any tribunal’ includes any award, order, or declaration made by the Court of Arbitration under any provision of the Industrial Conciliation and Arbitration Act 1954 or under any other Act.” 15

(2) Section 22 of the principal Act is hereby amended as from the commencement of Part III of that Act by adding the following subsection: 20

“(4) Where any order or determination or award of any tribunal fixes any remuneration at a rate that exceeds the base rate by a percentage greater than the specified percentage, then, unless pursuant to the proviso to subsection (5) of section 21 of this Act the consent of the Remuneration Authority is not required, the tribunal shall as soon as practicable cause the order, determination, or award to be referred to the Authority for its consent to that rate of remuneration. In every such case, the provisions of subsections (1) to (3) of this section shall, with the necessary modifications, apply as if that rate of remuneration were a proposed rate that had been agreed on by all the parties to the order, determination, or award and application had been made to the Authority under subsection (1) of this section for its consent.” 25 30

(3) Section 24 of the principal Act is hereby amended as from its commencement by repealing subsection (2), and substituting the following subsection: 35

“(2) The provisions of subsection (4) of section 22 of this Act shall apply with respect to every determination or order referred to in subsection (1) of this section as if it were an order of a tribunal to which the said subsection (4) applies.” 40

(4) Section 8 of the principal Act is hereby amended as from its commencement—

(a) By inserting in paragraph (e) of subsection (1), after the words “applications under”, the words “sub-section (1) of”: 45

(b) By inserting in subsection (1), after paragraph (e), the following paragraph:

5 “(ea) To consider orders, determinations, or awards of any tribunal fixing any rate of remuneration that exceeds the base rate by more than the specified percentage and referred to the Authority for its consent pursuant to subsection (4) of section 22 of this Act:”:

10 (c) By repealing paragraph (f) of subsection (1), and substituting the following paragraph:

15 “(f) To consider determinations or orders fixing any rate of remuneration for State employees that exceeds the base rate and referred to the Authority for its consent pursuant to section 24 of this Act (including instruments fixing any rate of remuneration for workers to whom section 29 of this Act applies and referred to the Authority pursuant to the said section 24 as applied by the said section 29):”.

20 (5) Nothing in this section shall affect the rights of the parties to, or of any person bound by, the New Zealand Clerical Workers Award dated the 8th day of October 1971 pursuant to the judgment given by the Supreme Court of New Zealand in relation to that award on the 10th day
25 of November 1971.